

### Appeals

#### Introduction

On June 28, 2004, the FDIC Board of Directors adopted revised Guidelines for Appeals of Material Supervisory Determinations (Guidelines), which describe the process by which financial institutions may appeal material supervisory determinations (MSDs) made by examiners and/or regional supervisory officials.

The revised Guidelines change the composition of the Supervisory Action Review Committee (SARC), reducing it from five to three voting members, and incorporate changes to the procedures governing SARC appeals. Included are new rules under which the Division of Supervision and Consumer Protection (DSC) issues written decisions if it denies requests for review of material supervisory determinations; if dissatisfied with the division's determination, institutions decide for themselves whether to appeal to the SARC; and SARC decisions will be published, with exempt material redacted. The types of determinations eligible for review by the SARC and the standards by which such appeals are decided remain unchanged.

#### Appeals Process

Financial institutions are asked to make a good faith effort to resolve the dispute concerning the MSD with the on-site examiner and/or the Regional Office. The on-site examiner and the Regional Office are expected to promptly respond to any concerns raised by an institution. If the institution is unable to resolve a dispute with an examiner or Regional Office, and would like to initiate an appeal, the financial institution must submit a written request for review to the Director of DSC within 60 calendar days following the institution's receipt of a report of examination containing a material supervisory determination or other written communication of a material supervisory determination.

The DSC Director will issue a written determination of the request for review, setting forth the grounds for that determination, within 30 days of receipt of the request. An institution that does not agree with the written determination rendered by the DSC Director must appeal that determination to the SARC within 30 calendar days from the date of that determination. The DSC Director's determination will inform the institution of the 30-day time period for filing with the SARC and will provide the mailing address for any appeal the institution may wish to file.

If the Director determines that an institution is entitled to relief that the Director lacks delegated authority to grant, the Director may, with the approval of the Chairperson of the SARC, transfer the matter directly to the SARC without issuing a determination. Notice of such a transfer will be provided to the institution.

Prohibition Against Examiner Retaliation - Any retaliation, abuse, or retribution by FDIC personnel, including an examiner, against an institution that appeals a MSD constitutes unprofessional conduct and will subject the examiner or other personnel to appropriate disciplinary or remedial action by the Director.

#### References

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*Guidelines for Appeals of Material Supervisory & Deposit Insurance Assessment Determinations,*  
<http://www.fdic.gov/regulations/laws/sarc/sarcguidelines.html>

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*DSC RD Memo 04-045: Guidelines for Processing Appeals of Material Supervisory Determinations*  
<http://fdic01/division/dsc/memos/memos/6000/04-045.pdf>